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July 7, 1992

Ms. Janis Sandler, Esq.  
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30 West First Street  
Mesa, Arizona 85201-6695

RE: 192-005 (R92-006)

Dear Ms. Sandler:

Pursuant to A.R.S. § 15-253(R), we have reviewed your April 21, 1992 Opinion Letter to Mrs. Myrna Sheppard, President of the Governing Board of the East Valley Institute of Technology (EVIT), regarding districting issues.

We concur with your conclusion that the specific boundaries of the proposed five districts should have been defined by the participating districts' governing boards in the plan submitted to the voters in the general election of 1990. We further concur that the boundaries were not sufficiently specifically defined in the plan submitted to the voters, as required under A.R.S. § 15-393(A).

The EVIT was formed pursuant to A.R.S. § 15-391, et seq. The legislature enacted Article 6, Joint Technological Education Districts, for the purpose of providing technological and vocational education to students in two or more school districts by establishing a new joint district. The legislation has been in effect less than two years, and EVIT is the first and only joint district established thus far. Therefore, as you pointed out, the plain language of the statutes provides the only guidance to participating districts in establishing a joint district. A.R.S. § 15-393(A) states that "[t]he single member district election system shall be submitted as part of the plan for the joint district . . . ." (emphasis added). The statute requires the governing boards of participating school districts to "define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable . . . ." A.R.S. § 15-393(A)(1). The plan submitted to the voters in

November, 1990 did not sufficiently define the boundaries of the single member districts. On the contrary, the plan provided that "[p]rior to the next general election following the establishment of the new district, the boundaries shall be reestablished to define five separate, approximately - population - equal, sectors within the new district." The plan appears to provide a promise of a plan, rather than a specific plan.

We concur with your conclusion that specific district boundary lines should be submitted to the voters for approval before any governing board members are elected from the newly constituted districts. Prior to this election, the plan should be submitted for approval to the United States Department of Justice, under the Voting Rights Act. The amended plan would then need to be submitted to the State Board for vocational and technological education for approval. Such resubmission, as required under the statutes, should correct any defects in the prior procedures.

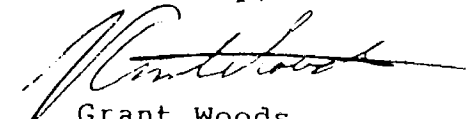
We further concur that all of the participating school district governing boards must approve the boundary lines pursuant to A.R.S. § 15-393(A)(1). Additional indication that such approval is required follows from the language of A.R.S. § 15-392(A) that "[t]he districts shall submit the results of the study and the plan, along with evidence of approval by the governing board of each school district included in the selected plan for the joint district, to the State Board for Vocational and Technological Education."

We revise that portion of your opinion that states that since the plan was not sufficiently specific in the initial definition of boundaries of the single member districts, an ~~amended~~ plan should be submitted. It is probably preferable to begin anew. A plan should be formulated, pursuant to A.R.S. § 15-393. This plan should then be submitted to the Justice Department for approval and subsequently submitted to the voters. At this point, the plan may be submitted to the State Board for Vocational and Technological Education. These steps would constitute the formation of the district under A.R.S. § 15-391, et seq. The remaining problem, as you pointed out in your letter, is in continuing the functioning of the EVIT for the benefit of member districts and students now participating in the joint district. Perhaps the reconstitution of the district adequately addresses that problem by forming the district anew. Therefore, flexibility could be accorded the initial joint board presently convened, since it is, in effect, an unofficial board. This approach would also avert the need for legislation extending the term of the initial joint board. The school districts would be required to appoint the new members of the joint board, whether those now serving or new selections made by the district governing boards, and the process would proceed as required under A.R.S. § 15-391, et seq.

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We concur with your conclusion that participating districts may vote to implement an alternative election system under A.R.S. § 15-393(B).

Sincerely,



Grant Woods  
Attorney General

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